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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,978	04/24/2006	Jan Birstock	4001-1203	1949
466	7590	11/28/2006	EXAMINER	
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			SUCH, MATTHEW W	
			ART UNIT	PAPER NUMBER
			2891	

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/542,978

Applicant(s)

BIRNSTOCK ET AL.

Examiner

Matthew W. Such

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>21 July 2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

2. The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81(c). No new matter may be introduced in the required drawing. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

Claim Objections

3. Claim 6 is objected to since it recites the limitation "the molten mass" in Line 2. There is insufficient antecedent basis for this limitation in the claim. The Examiner provisionally interprets the phrase to be "a molten mass".
4. Claims 8 and 9 are objected to since it recites the limitation "the organic electronics component". There is insufficient antecedent basis for this limitation in the claim. The Examiner provisionally interprets the phrase to be "the electronics component".

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Vleggaar ('052).

7. Regarding claim 1, Vleggaar teaches an encapsulation for organic electronics components which are formed from a metallic alloy (Page 2, Lines 30-34). The language, term, or phrase “manufactured from a molten mass”, is directed towards the process of producing the metallic alloy. It is well settled that “product by process” limitations in claims drawn to structure are directed to the product, *per se*, no matter how actually made. *In re Hirao*, 190 USPQ 15 at 17 (footnote 3). See also, *In re Brown*, 173 USPQ 685; *In re Luck*, 177 USPQ 523; *In re Fessmann*, 180 USPQ 324; *In re Avery*, 186 USPQ 161; *In re Wethheim*, 191 USPQ 90 (209 USPQ 554 does not deal with this issue); *In re Marosi et al.*, 218 USPQ 289; and particularly *In re Thorpe*, 227 USPQ 964, all of which make it clear that it is the patentability of the final product *per se* which must be determined in a “product by process” claim, and not the patentability of the process, and that an old or obvious product produced by a new method is not patentable as a product, whether claimed in “product by process” claims or otherwise. The above case law further makes clear that applicant has the burden of showing that the method language necessarily produces a structural difference.

As such, the language “manufactured from a molten mass” only requires metallic alloy, which does not distinguish the invention from Vleggaar, who teaches the structure as claimed. Furthermore, Vleggaar also teaches that the metallic alloy can be manufactured from a molten mass (see, for example, Page 4, Lines 4-34; Page 6, Lines 20-24; Page 9, Lines 9-13).

8. Regarding claim 2, Vleggaar further teaches that the metallic alloy has a melting point between 30-200 degrees Celsius (Page 4, Lines 4-7).

9. Regarding claim 3, Vleggaar further teaches that the metallic alloy forms a tight seal in solidified form against moisture and oxidizing gases (Page 2, Line 33; Page 3, Lines 1-7).

10. Regarding claim 4, Vleggaar further teaches that the metallic alloy can contain any of cadmium, tin, bismuth, lead, indium, mercury, etc. (Page 4, Lines 8-23).

11. Regarding claim 5, Vleggaar further teaches that the encapsulation layer can be between 1-700 microns thick (Page 10, Lines 12-17).

12. Regarding claim 6, Vleggaar teaches a method of encapsulating an electronics component by applying a molten mass of a metallic alloy (see, for example, Page 4, Lines 4-34; Page 6, Lines 20-24; Page 9, Lines 9-13).

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13. Regarding claim 7, Vleggaar further teaches that the molten mass can be applied by a printing process, such as soldering, spray coating, or drop casting (Page 4, Lines 24-29).

14. Regarding claim 8, Vleggaar further teaches that the molten mass solidifies on the organic electronics component (see, for example, Page 9, Lines 1-13).

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vleggaar ('052) in view of Cheung ('151).

Vleggaar does not teach an insulating intermediate layer that is applied to the electronics component prior to encapsulation.

Cheung teaches an encapsulating layer on an electronics component with an insulating intermediate layer applied to the component prior to encapsulation (Page 23, Lines 10-16; Fig. 7). It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply an insulating intermediate layer to the electronics component prior to encapsulation in order to protect the electrode from the encapsulation layer (Cheung Page 23, Lines 10-16; Fig. 7).

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Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew W. Such whose telephone number is 571-272-8895.


The examiner can normally be reached on Monday - Friday 8AM-5PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bradley W. Baumeister can be reached on 571-272-1722. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Matthew W. Such
Examiner
Art Unit 2891

MWS
11/24/06


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